IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4075 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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B K JOSHI - Petitioner
Versus
STATE OF GUJARAT & 2 - Respondents

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Appearance :
NOTICE SERVED for Petitioner.
MR LB DABHI, AGP for Respondent No. 1.
None for Respondent Nos. 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 06/02/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for quashing and setting aside the suspension order passed by the respondents on 08.03.1990. The petitioner has also prayed for the direction to the respondents to implement the Circular dated 07.08.1990 and to regularize the petitioner's suspension period from 14.03.1989 onwards as per the said Circular dated 07.08.1990.

2.It is the case of the petitioner that the petitioner joined services in September, 1958 and was aged 54 years at the time of filing of the petition. The petitioner was transferred from Navsari to Nadiad by an order dated 18.08.1988. The petitioner was thereafter suspended from service vide order dated

08.03.1989. The petitioner has made various representations to the respondents for reinstating the petitioner in service. The petitioner has pointed out in the said representation that as per the Govt. instructions, in case of a Govt. employee who is under suspension, departmental inquiry is required to be completed within four months. In the case of the petitioner, the petitioner was suspended since March, 1989 and, therefore, more than three years have already passed but the respondents have not even started the inquiry after issuing the charge-sheet and after appointing the inquiry Officer. The Govt. has issued Circular dated 07.08.1990 wherein it is stated that an employee should either be transferred or suspended, but he should not be both transferred and suspended. The said Circular has been given effect from 01.01.1985 and the Circular specifically states that in case of all the employees who were placed under

suspension after transfer, they should be reinstated in service and the intervening period should be treated as a period spent on duty. The petitioner, therefore, submitted that the impugned order of suspension is violative of the aforesaid circulars dated 07.08.1990 and, therefore, clearly illegal and violative of the petitioner's fundamental rights guaranteed under Articles 14 & 16 of the Constitution of India.

3.The petition was admitted on 03.09.1992. The petition was originally filed by the learned advocate on behalf of the petitioner, who was later on elevated to the bench of this Court. The Court has, thereafter, issued fresh notice on the petitioner. The notice was duly served on the petitioner. Nobody appears on behalf of the petitioner. Even otherwise, by this time, the petitioner has retired as at the time when the petition was filed, the petitioner was 54

years old. It, therefore, appears to the Court that the petitioner is not interested in prosecuting this petition. Even otherwise, the suspension order has not been stayed by this Court. It remained in operation all throughout. It is, therefore, not just and proper for this Court to interfere in the said suspension order after 16 years. The petition is, therefore, dismissed. Rule discharged without any order as to costs.

[K.A. PUJ, J.]

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